

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Requests for Review of the Decision of the	)	
Universal Service Administrator by	)	
	)	
American Falls School District No. 1381	)	File No. SLD-380611
American Falls, Idaho	)	
	)	
Berlin-Milan Local Schools	)	File No. SLD-363638
Milan, Ohio	)	
	)	
Humble Independent School District	)	File No. SLD-380437
Humble, Texas	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: March 16, 2005**

**Released: March 17, 2005**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration Requests for Review filed by American Falls School District No. 1381, American Falls, Idaho; Berlin-Milan Local Schools, Milan, Ohio; and Humble Independent School District, Humble, Texas (collectively, Petitioners).<sup>1</sup> The Requests for Review seek review of decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). Consistent with precedent, we deny the Requests for Review. To the extent that the Petitioners request a waiver of the Commission's rules, we deny those requests as well.

2. Each of SLD's decisions at issue in the Requests for Review involves denial of funding on the grounds that the Petitioners filed all or part of their Funding Year 2003 FCC Form 471 application after the close of the filing window deadline. In the Requests for Review, Petitioners either assert that they believe the full FCC Form 471 application was filed within the filing window or concede that they filed the FCC Form 471 application after the close of the filing window.<sup>2</sup> After review of the record, we find Petitioners did not file complete FCC Form 471 applications by the close of the filing window.

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<sup>1</sup> Letter from Roger Johnston, American Falls School District No. 1381, to Federal Communications Commission, filed June 30, 2003; Letter from Patrick J. O'Regan, Berlin-Milan Local Schools, to Federal Communications Commission, filed May 27, 2003; Letter from Bill Alexander, Humble Independent School District, to Federal Communications Commission, filed June 18, 2003 (collectively, Requests for Review).

<sup>2</sup> The deadline for Funding Year 2003 applications was February 6, 2003. *See* Universal Service Administrative Company (USAC) website, What's New, December 2, 2002.

3. Consistent with precedent, we deny the Requests for Review. The Commission's rules allow the Administrator to implement an initial filing period for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.<sup>3</sup> We have strictly and consistently enforced the filing window deadlines for FCC Form 471 applications.<sup>4</sup> Allowing applicants to file incomplete or late applications, and have those applications considered timely, would be unfair to the applicants who diligently filed their complete applications in a timely fashion.<sup>5</sup> Because we find that the Petitioners' FCC Form 471 applications were filed outside of the window, we deny the Requests for Review.

4. To the extent that Petitioners additionally ask us to waive our rules in this instance, we also deny their requests.<sup>6</sup> Waiver is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the rule.<sup>7</sup>

5. We find that the Petitioners have not demonstrated special circumstances to warrant waiver. The Commission has strictly enforced filing deadlines, allowing waivers of deadlines only in very limited and compelling situations.<sup>8</sup> In light of the large number of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures, including filing deadlines.<sup>9</sup> Hence, employee illness,

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<sup>3</sup> Section 54.507(c) of the Commission's rules states that fund discounts will be available on a first-come-first-served basis. Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules. 47 C.F.R. § 54.507(c) and (g).

<sup>4</sup> See e.g., *Request for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 7383, 7389, para. 13 (Wireline Comp. Bur. 2002); *Request for Review by Wilmington Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-254818, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 12069 (Wireline Comp. Bur. 2002); *Request for Review by South Barber Unified School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-158897, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 18435 (Com. Car. Bur. 2001).

<sup>5</sup> Program procedures for Funding Year 2003 require that FCC Form 471 Block 6 certifications be postmarked no later than February 6, 2003, in order for the FCC Form 471 to be considered filed in a timely manner. See Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, FCC Form 471, OMB-3060-0806 (December 2002).

<sup>6</sup> 47 C.F.R. § 54.720(b).

<sup>7</sup> 47 C.F.R. § 1.3. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

<sup>8</sup> See, e.g., *Request for Waiver by Stephen-Argyle Central School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-228975, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 15879, 15880-81, paras. 4-5 (Com. Car. Bur. 2001); *FCC Overrides Caldwell Television Associates, Ltd.*, Public Notice, 58 RR 2d 1706 (1985) (permitting waivers only for particularly unusual and compelling circumstances).

<sup>9</sup> See *Request for Review by Anderson School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612-13, para. 8 (Com. Car. Bur. 2000) ("In light of the thousands of applications that SLD reviews and process each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").

staff failure to perform a job properly, inclement weather, misunderstanding of the rules, or misinformation received from SLD, does not relieve applicants of their responsibility to comply with the Commission's rules and procedures.<sup>10</sup> Further, the assertion that denial of an application may have a detrimental impact on an applicant does not create special circumstances or suggest particular facts that warrant a waiver of the Commission's rules.<sup>11</sup> In keeping with our prior decisions, we determine that the Petitioners here have not demonstrated the special circumstances necessary for a waiver of our rules.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Requests for Review filed by American Falls School District No. 1381, American Falls, Idaho, on June 30, 2003; Berlin-Milan Local Schools, Milan, Ohio, on May 27, 2003; and Humble Independent School District, Humble, Texas, on June 18, 2003, respectively, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson  
Deputy Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>10</sup> *Request for Waiver by Duncan Public Library, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-325536, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22430, 22431, para. 3 (Wireline Comp. Bur. 2003); *Request for Waiver by Dermott Special School District, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-252777, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 5091, 5093, paras. 3-5 (Com. Car. Bur. 2002). See also *Request for Waiver by Art In Context, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-262426, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 5087, 5089, paras. 6-8 (Com. Car. Bur. 2002); *Request for Waiver by Midland School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-269321, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 17920, 17922-23, paras. 5-6 (Com. Car. Bur. 2001).

<sup>11</sup> *Application for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 21521, 21528, para. 18 (2003).